

REMARKS

In an Office Action dated February 22, 2006, the Examiner rejected claims 8 and 14 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner further rejected claims 1-20 under 35 U.S.C. §103(a) as being anticipated by Lioy (U.S. patent no. 6,775,553). The rejections and objections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 8 and 14 under 35 U.S.C. §101 as being directed to non-statutory subject matter. In accordance with the suggestion of the Examiner, the applicants have amended each of claims 8 and 14 to provide a tangible computer-readable medium. Accordingly, the applicants respectfully request that the Examiner withdraw the §101 rejections of claims 8 and 14.

The Examiner rejected claims 1-20 under 35 U.S.C. §103(a) as being anticipated by Lioy. Specifically, with respect to claim 1, the Examiner contended that Lioy teaches a method for an infrastructure element to establish communications between two peers in a communication system comprising the two peers that communicate with each other across an intermediate network comprising the infrastructure element, the method including monitoring at least a portion of messages exchanged between the two peers for control messages, storing at least some parameters corresponding to the control messages exchanged between the two peers to provide stored parameters, detecting occurrence of retransmission of a control message from one of the two peers, wherein the retransmission of the control message will lead to duplicate negotiations between the two peers, and processing the retransmission of the control message based on the stored parameters such that the duplicate negotiations are avoided between the two peers (col. 5, line 62 to col. 6, line 30).

The Examiner acknowledged that Lioy fails to disclose the feature of sending a valid proxy response. However, the Examiner contended that Lioy allows for a switching system (col. 1, line 50), that a switching system is a proxy, and therefore it would have been obvious to one of ordinary skill in the art to add a sending of a valid proxy response

to the system of Lioy. The applicants respectfully disagree and believe that the Examiner has improperly read a proxy function into Lioy.

In the section of Lioy cited by the Examiner (col. 1, line 50), Lioy merely teaches a mobile terminal (MT2/TE2) that communicates with an Interworking Function (IWF) via a Base Station/Mobile Switching Center (BS/MSC). However, the role of the BS/MSC is never elaborated by Lioy. Conventionally, the BS/MSC provides a connection between the elements, in the case of Lioy between the MT2/TE2 and the IWF. Providing a connection consists of receiving a message from one element and forwarding the message to the other element. Providing a connection does not include a proxy function wherein the intermediate node, that is, the BS/MSC, sends messages on behalf of an end unit such as the MT2/TE2 or the IWF. By contrast, claim 1 teaches a proxy function that processes the retransmission of the control message and sends a valid proxy response based on stored parameters such that the duplicate negotiations are avoided between the two peers.

Further, the applicants note that the Examiner fails to point out any prior art wherein the BS/MSC operates as a proxy for the endpoints. By contending that it would have been obvious for one of ordinary skill in the art to read proxy functionality into the BS/MSC of Lioy, the Examiner is impermissibly engaging in little more than hindsight analysis based on the applicants' disclosure. M.P.E.P. §2142 provides the conclusion of obviousness "must be reached on the basis of facts gleaned from the prior art." That is, a conclusion of obviousness is proper "so long as it takes into account only knowledge which was within the level of ordinary skill in the art...and does not include knowledge gleaned only from the applicant's disclosure" M.P.E.P. §2145(j)(1). In the instant case, the only apparent source of the teaching of providing the claimed proxy functionality is the instant application; the Examiner cites no prior art in support. In fact, one may note that the BS/MSC is not even depicted in FIG. 3B of Lioy, which further indicates the passive role of the BS/MSC in Lioy, that is, that the BS/MSC simply receives and forwards messages. Therefore, there is no need, and it is not obvious, for the BS/MSC of Lioy to perform the claimed proxy functionality and the proxy functionality of claim 1 is not obvious. Accordingly, Lioy does not teach the features of claim 1 of detecting an occurrence of retransmission of a control message from one of

two peers, wherein the retransmission of the control message will lead to duplicate negotiations between the two peers and processing the retransmission of the control message and sending a valid proxy response based on stored parameters such that the duplicate negotiations are avoided between the two peers, and the applicants respectfully request that claim 1 may now be passed to allowance.

Since claims 2-8 depend upon allowable claim 1, the applicants respectfully request that claims 2-8 may now be passed to allowance.

Claim 9 provides, in a communication system comprising at least two peers that communicate with each other across an intermediate network comprising at least one infrastructure element, a method for an infrastructure element of the at least one infrastructure element to establish communications between a first peer and a second peer of the at least two peers, the method including storing parameters from a received request control message to provide stored request control message parameters, receiving, from the first peer, a retransmission of the request control message targeted to the second peer, and processing the retransmission of the request control message and sending a valid proxy response based on the stored request control message parameters. As noted above, Lioy does not teach these features. In addition, whatever functionality is taught by Lioy resides in an end system (that is, the mobile terminal (MT2/TE2)) and not in an infrastructure element. Accordingly, the applicants respectfully request that claim 9 may now be passed to allowance.

Since claims 10-14 depend upon allowable claim 9, the applicants respectfully request that claims 10-14 may now be passed to allowance.

Claim 15 provides an apparatus for use in an intermediate network across which at least two peers communicate with each other, the apparatus comprising a processor that stores, in an at least one storage device, at least some parameters corresponding to the control messages exchanged between the two peers to provide stored parameters, detects occurrence of retransmission of a control message from one of the two peers, wherein the retransmission of the control message will lead to duplicate negotiations between the two peers, and processes the retransmission of the control message and sends

a valid proxy response based on the stored parameters such that the duplicate negotiations are avoided between the two peers. As described in detail above, no such processor is taught by Lioy. Accordingly, the applicants respectfully request that claim 15 may now be passed to allowance.

Furthermore, claims 19 and 20 teach a base station controller (BSC) and a mobile switching center (MSC) embodying the apparatus of claim 15. The base station (BS) and mobile switching center (MSC) taught by Lioy are mere conduits for control messages and never participate in the negotiations, unlike the BSC and MSC of claims 19 and 20 which detect occurrence of retransmission of a control message from one of the two peers, wherein the retransmission of the control message will lead to duplicate negotiations between the two peers, process the retransmitted control message, and send a valid proxy response based on the stored parameters such that the duplicate negotiations are avoided between the two peers. Therefore, Lioy cannot be construed to teach an embodiment of the apparatus described in claim 15 in a BS or MSC. For these reasons, and since claims 16-20 depend upon allowable claim 15, the applicants respectfully request that claims 16-20 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,
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